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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,827	10/10/2003	George Henry Hofmann	AD6944 US NA	2982

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
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WILMINGTON, DE 19805

EXAMINER

CHEN, VIVIAN

ART UNIT PAPER NUMBER

1773

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/683,827	Applicant(s) HOFMANN, GEORGE HENRY	
	Examiner Vivian Chen	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 19-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) 17-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/15/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I (claims 1-18) in the reply filed on 12/16/2005 is acknowledged. The traversal is on the ground(s) that the examination of all claims does not represent a serious burden. This is not found persuasive because while the inventions share certain features, they each have numerous features not required by the others and therefore requiring a search of all inventions constitutes a serious burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 19-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/16/2005.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over NAKATSUJI ET AL (US 6,045,732);

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in view of BEAVERS ET AL (US 4,636,442) or BEAVERS ET AL (US 4,665,153).

NAKATSUJI ET AL discloses a multilayer composite comprising a polyvinyl chloride layer, a polypropylene layer, and an intermediate adhesive layer, wherein the adhesive layer comprises 30-90 wt% polyester resin, 10-70 wt% of an ethylene copolymer containing epoxy groups, and minor amounts of a second ethylene copolymer; wherein the polyester can be a polyesterether; wherein the ethylene copolymer contain epoxy groups contains 20-99.9 wt% ethylene, 0.1-30 wt% glycidyl ester units, and 0-50 wt% other comonomers (e.g., alkyl acrylates, etc.). The composites are suitable for forming automotive and construction materials, wherein the composites have typical peel strength values of 2800 g/20 mm and more. (line 48, col. 1 to line 4, col. 2; line 15, col. 3 to line 27, col. 5; line 25-55, col. 13; Table 1) However, the reference does not explicitly disclose polyester elastomers.

BEAVERS ET AL '442 discloses that it is well known in the art to utilize elastomeric copolyesterethers containing units derived from polytetramethylene ether glycol as an adherent layer between other polymeric layers. (BEAVERS ET AL '442, columns 1-2). BEAVERS ET AL '153 discloses that it is well known in the art to in the art to utilize elastomeric copolyesterethers containing units derived from polytetramethylene ether glycol as a bonding layer between other polymeric layers. (BEAVERS ET AL '153, line 55, col. 1 to line 60, col. 2) It would have been obvious to a person of ordinary skill in the art at the time the invention was made to known polyester-based elastomers with good adherent properties as the polyester component in NAKATSUJI ET AL in order to obtain delamination resistant laminates with desirable mechanical and stress-resistant properties. One of ordinary skill in the art would have selected the hardness of the polyester elastomer (claim 8, 11) depending on the flexibility,

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toughness, and other mechanical properties desired for specific usages. Regarding claim 16, the method of forming is a product-by-process limitation and is not further limiting in as so far as the structure of the product is concerned. "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. *The patentability of a product does not depend on its method of production.* If the product in the product-by-process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." [emphasis added] *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). See MPEP 2113. Once a product appearing substantially identical is found, the burden shifts to applicant to show a *unobvious* difference between the claimed product and the prior art product. *In re Marosi*, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir. 1993). The patentability of a product is based on the product itself, and is not dependent on its method of production.

Allowable Subject Matter

3. Claims ¹⁷⁻¹⁸~~16-17~~ are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose or suggest the recited component (c) comprising an acid copolymer or an anhydride derivative thereof.

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Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 5, 2006



Vivian Chen
Primary Examiner
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